

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Markem Corporation

v.

Case No. 07-cv-06-PB

Zipher, Ltd. et al.

O R D E R

Markem Corporation has filed a Renewed Motion for Reconsideration of the Court's Construction of "Spools."

In the final sentence of a 36-page order focusing largely on other issues, I stated that the disputed claim should be read "to require that at least one spool rotate during the correction step, but not necessarily both spools." Markem v. Zipher, et al., 2008 DNH 161, at 36 (D.N.H. 8/28/08). Markem argues that this sentence is incorrect because it suggests that the claim term "spools" should be read to encompass devices in which only a single spool is rotated to regulate tape tension. I agree with Markem on this point and now make clear that the term "spools" means more than one spool rather than a single spool.

My ruling does not resolve the parties' related disagreement as to whether the claim requires that tape tension must be regulated by the simultaneous rotation of multiple spools. Because this issue has not been adequately briefed, I do not

express an opinion on the issue. Instead, the parties may raise the issue again in connection with their anticipated motions for summary judgment and I will consider the issue *de novo* at that time.

Markem's motion for reconsideration (Doc. No. 105) is granted to the extent that it is consistent with this Order.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

September 1, 2009

cc: Counsel of Record